

What's New for 2008

Electronic Filing - (Place holder for information).

Montana Mineral Royalty Tax Withholding – Effective January 1, 2008, royalty payments made to owners of Montana mineral rights are subject to state income tax withholding if applicable thresholds are met. For those eligible nonresident partners who elect to participate in a composite filing, the mineral royalty withholding will be applied against the composite tax. Resident partners will report their share of the withholding on their income tax return. Please see page xx for additional information.

Temporary Emergency Lodging Credit – For tax years beginning on or after January 1, 2008, a refundable tax credit is available for licensed establishments that provide short-term emergency lodging under the Temporary Emergency Lodging Program. The program helps provide lodging for individuals or families who have been displaced from their residence and have been referred to the establishment by a charitable organization approved by the Montana Department of Public Health and Human Services. The credit is equal to \$30 for each day of lodging provided by the establishment. Please see page xx for additional information.

Economic Stimulus Act of 2008 - This federal act provided a significant tax incentive for businesses to make capital investments by adding a special 50 percent depreciation allowance for qualifying purchases. This special "bonus depreciation" allowance is available to all businesses and applies to most types of tangible personal property and computer software acquired and placed in service after December 31, 2007, and before January 1, 2009. The Montana tax provisions, with respect to the additional 50% special depreciation allowance for qualified property, incorporate Section 167, IRC. Therefore, the special depreciation allowance on federal Form 4562 is an allowable

deduction in determining the ordinary income or loss for Montana.

Please Note As Well.....

Interest on Unpaid Income Tax Liabilities -

The current interest rate for individual income tax and composite income tax is 8% and will continue to be in effect through December 31, 2009. The daily accrual interest rate for all unpaid income taxes depends on the rate set by the Internal Revenue Service and may fluctuate each year, but will never be less than 8%.

Place Holder - Paragraph for check box for "do not send forms"

General Information

Who has to file Form PR-1?

A partnership that is engaged in business in Montana and has Montana source income has to file an annual Montana Partnership Information Tax Return (Form PR-1). When you file Form PR-1, please attach a complete copy of your federal Form 1065, including all federal Schedule K-1(s).

Tax Period or Year Covered by the Tax Return

The 2008 Form PR-1 must be filed for the calendar year 2008, or the fiscal year beginning in 2008. If the tax return is for a fiscal year or a short tax year (less than 12 months) enter the taxable year in the space at the top of Form PR-1.

The taxable year for Montana must be the same as the year used for federal income tax purposes. If the partnership changes its federal taxable year, it must change its Montana taxable year accordingly. A copy of the approval from the Internal Revenue Service to change your accounting period must accompany the first tax return that reflects the change.

Check the box "Final Return" on Form PR-1, page 1 if the partnership ceased to exist during the 2008 tax year.

What forms have to be filed?

Montana Resident Partners

If the ownership of the partnership consists only of Montana resident partners, you are required to complete Form PR-1, pages 1 and 2; Schedule II, Montana Partnership Tax Credits, if applicable; Schedule III, Montana Partnership Information; and Schedule VI, Reporting of Special Transactions, if applicable..

We cannot accept copies of federal Schedule K-1 in place of a completed Schedule III. If Schedule III is not completed, we will return Form PR-1 for you to complete.

Nonresident Partners

Additional filing requirements are listed below for those partnerships that have a partner who is a nonresident individual, a foreign C corporation or a pass-through entity at any time during the tax year. A nonresident individual is a person who did not consider Montana as home at any time during the tax year even though they may have lived and worked in Montana temporarily during the tax year. A foreign C corporation is a C corporation that is not engaged in or doing business in Montana. A pass-through entity is an S corporation, partnership, or disregarded entity. These filing requirements are:

- Form PT-AGR (Montana Pass-through Entity Owner Tax Agreement) is executed by the nonresident individual or foreign C corporation that agrees to timely file, pay and be subject to personal jurisdiction of the State of Montana. The partnership is not required to attach a new Form PT-AGR each year, but it has to attach currently effective agreements for each new nonresident partner. It also needs to retain these agreements along with its tax records.
- Schedule IV (Montana Partnership Composite Income Tax Schedule) is completed for eligible partners who have elected to participate in a composite filing.
- Schedule V (Pass-through Entity Backup Withholding Schedule) is completed for a partner who is not participating in the partnership's composite tax return or who has

not provided the partnership with a signed Form PT-AGR.

A partnership that has a partner who is a pass-through entity (partnership, S corporation, or disregarded entity) that itself has a nonresident individual, foreign C corporation or another pass-through entity as a partner at any time during the tax year has to include with its filing:

- Form PT-STM (Montana Second Tier Pass-through Entity Owner Statement). It must be executed by the second tier pass-through entity that identifies the owners of the second tier pass-through entity and establishes that its Montana source income will be fully accounted for in Montana individual or corporation tax returns that are filed by the owners of the second tier pass-through entity.

We require Form PT-STM to be filed each year that the partnership has a partner that is a pass-through entity that has a nonresident individual, pass-through entity, or foreign C corporation as a partner.

Montana Source Income

Montana source income includes the separately and non-separately stated income, gain, loss, deduction or credit, or items of income, gain, loss, deduction or credit that you have derived from a trade, business, occupation or profession carried on in Montana or that was derived from the sale or other transfer, or the rental, lease, or other commercial exploitation of property located in Montana.

A partnership doing business only in Montana will source 100% of its income to Montana.

A partnership is requested to ensure that its nonresident partners file a Montana income tax return to report their share of Montana source income earned by the pass through entity. This is accomplished in one of three ways:

- File a composite return (Form PR-1, Schedule IV) on behalf of the nonresident members 15-30-1112, MCA,
- Provide a completed Form PT-AGR (Montana Pass-Through Entity Owner

Tax Agreement) for each nonresident partner establishing that he/she will timely file, pay and be subject to the personal jurisdiction of the State of Montana 15-30-1113, MCA, or

- Withhold income tax (Form PR-1, Schedule V) for each nonresident partner who has not met one of the other filing requirements 15-30-1113, MCA.

Apportionment of Income

A partnership doing business in more than one state must apportion its Montana source income to any states in which the entity is doing business. This ensures income is reported to the state in which the income is earned and taxable.

Montana source income apportioned under the Multistate Tax Compact is computed using three factors; the property factor, the payroll factor and the sales factor. Business income is apportioned using the three factors. Nonbusiness income is directly allocated to the appropriate state. Complete and attach Schedule I of the return if you use this three factor apportionment method.

Allocation of Income

A partnership doing business in more than one state must determine nonbusiness income allocated to Montana and outside Montana. All income that arises from the conduct of the trade or business operations of a partnership is business income.

Nonbusiness income means all income other than business income and will be narrowly construed. Intangible income must be properly classified and based upon factual evidence. The burden of proof is on the partnership to justify the manner in which the income is claimed on the return.

Interest income is business income where the intangible, with respect to which the interest was received, arises out of or was created in the

regular course of the taxpayer's trade or business operations.

Dividends are business income where the stock, with respect to which the dividends are received, arises out of or was acquired in the regular course of the taxpayer's trade or business operations. Because of the regularity with which most noncorporate taxpayers engage in investment activities, income arising from the ownership, sale or other disposition of investments is presumptively business income.

Gain or loss from the sale, exchange or other disposition of real, tangible or intangible personal property constitutes business income if the property, while owned by the taxpayer, was used in the taxpayer's trade or business.

Rental income from real and tangible property is business income if the property, with respect to which the rental income was received, is used in the taxpayer's trade or business or includable in the property factor.

Composite Tax Returns

A partnership may file a composite return on Form PR-1, Schedule IV, for its nonresident partners as a simplified way of paying the income tax owed by those taxpayers. This replaces the preparation of a separate Montana income tax return for each taxpayer. Each nonresident partner may elect to be included or excluded from the composite filing. The tax paid will range from 1% to 6.9% of the Montana taxable income.

A taxpayer should not be included in a composite return if they have other Montana source income that will require the filing of a separate Montana income tax return.

Nonresident partners who are eligible for inclusion in a composite return must elect whether to be included in such return. This election is an agreement between the taxpayer and the pass-through entity and can be done in any manner the parties agree upon. A written or signed agreement is not required. The election

is communicated to the Department of Revenue on Schedule III, Section B, Column G.

A nonresident partner can complete Form PT-AGR (Montana Pass-Through Entity Owner Tax Agreement). This establishes that the taxpayer is required to file a Montana income tax return, will report the Montana source income and pay any Montana tax due thereon, and will be subject to Montana Department of Revenue enforcement and collection procedures. The form is executed by the nonresident partner and returned to the partnership. The partnership needs to retain these agreements along with its tax records. The partnership is not required to attach a new Form PT-AGR each year but it has to attach currently effective agreements for each nonresident partner.

When to File

The Montana filing period is the same as your federal filing period. For a calendar year partnership, Form PR-1 is due on April 15 following the close of the taxable year. For a fiscal year partnership, Form PR-1 is due on or before the 15th day of the 4th month following the close of the tax year. If the due date falls on a weekend or a holiday, the tax return is due on the next business day.

Where to File

Please mail your partnership information and composite tax return to:

Montana Department of Revenue
PO Box 8021
Helena, MT 59604-8021

Who has to sign the tax return?

Form PR-1 has to be signed and dated by a general partner or limited liability company member. Form PR-1 is not considered to be complete unless it is signed. Unsigned tax forms will be returned to you for completion. If your partnership has an outside accounting firm or an individual prepare Form PR-1, the name, the address and telephone number of the tax preparer has to be included on your tax return.

Tax Preparer Contact Box

You can authorize the department to discuss your Form PR-1 tax return with your tax preparer by checking the "Yes" box at the bottom of page 2 below the signature block on the tax return. If you check this box, we may contact your tax preparer or you for additional information for this year only. We will inform you, not your tax preparer if any formal tax adjustments are made.

Extension of Time to File

A partnership is allowed an automatic six-month extension of time to file. This extends the time for filing Form PR-1 and its supporting schedules and, where applicable, Forms PT-AGR and PT-STM.

You must check the extension indicator box on Form PR-1 and attach a copy of your federal extension Form 7004 to your completed Montana income tax return. Do not send copies of the federal extension prior to filing your tax return.

IMPORTANT: An extension of time to file is NOT an extension to pay. If you do not pay the amount of tax due by the original due date, you will owe interest and penalties on any balance due.

Amended Tax Return

If you discover that your income tax return was incorrect, you have five years from the due date of the original tax return to file an amended Montana partnership tax return and to correct any mistake on your previous tax return. Use Form PR-1 to amend an original tax return. Check the box at the top of the tax return that this represents an amended filing and check one or more of the boxes below indicating the reason(s) for amending your tax return. Attach the applicable forms and statements that will explain all of your adjustments in detail. Complete the entire Form PR-1 and its applicable schedules using the corrected amounts. If your amended tax return results in a change to income or a change in the distribution of any income or other information provided to any partner, you will also need to file an

amended federal Schedule K-1 along with your amended Form PR-1. You will need to give a copy of the amended tax return to each partner.

If you file an amended tax return that reflects an increased tax liability, you may have the late payment penalty waived. In order to request the waiver, simply check the "Amended Return" box on the tax form and pay the tax and applicable interest in full. By checking this box, you are requesting a waiver of the late payment penalty.

If the Internal Revenue Service changes or makes corrections to your federal Form 1065 or if your partnership amends its federal tax return, you must file an amended Form PR-1 within 90 days of receiving the Internal Revenue Service's notification of the corrections made to your federal Form 1065 or filing your amended federal tax return.

Net Operating Losses

Losses are passed through to the individual partners and are not available for carry forward or carry back on Form PR-1.

Instructions for Montana Form PR-1

Lines 1 through 11 - Enter the amounts reported on your federal Form 1065, Schedule K, Partners' Distributive Share Items, lines 1 through 11.

Line 6 - Ordinary Dividends: Enter the total amount of ordinary dividends that you reported on your federal Form 1065, Schedule K, line 6a. Montana taxes dividends as ordinary income and does not recognize the federal qualified dividend tax rate.

Lines 13 and 14 - Enter the amount of deductions that you reported on your federal Form 1065, Schedule K, lines 12 and 13, Partners' Distributive Share Items.

Line 16 - Partnerships' Distributive Share of Montana Additions to Income. To compute Montana income taxable to partners, certain items have to be added to income. A detailed schedule is required to be attached to the tax return.

16a. State, county, and municipal interest and dividends not taxable under the Internal Revenue Code are added when computing Montana income taxable to partners. Interest and dividends from Montana bonds are not taxable.

16b. State, local and foreign income taxes based on income or profits have to be added back to income. 15-31-114(1)(e), MCA.

16c. Report all other additions. Examples are:

- Compensation and expenditures used to compute the film production credit have to be included in the income of the year that the expenditures were incurred. 15-31-907(6) and 15-31-908(5)
- If you were the owner of a business that received a tax credit from the Insure Montana Small Business Health Insurance program, you are not allowed a deduction for the premiums used to calculate the credit. Because the credit cannot exceed 50% of the premiums, multiply the amount of credit you are claiming by two (2) and enter the result on line 16c.

Line 17 - Partners' Distributive Share of Montana Exclusions and Deductions to Income. To compute Montana income taxable to partners, certain items are excluded or deducted from income. A detailed schedule is required to be attached to the tax return.

17a. Interest on United States government obligations and mutual fund dividends attributable to that interest are exempt from Montana income tax. In addition, interest on obligations from U.S. territory or government agency obligations that are specifically exempt by federal law, and any mutual fund dividends attributable to this interest, are exempt from Montana income tax.

Obligations that are guaranteed by the United States government are not tax exempt. If you have received interest or mutual fund dividends attributable to Government National Mortgage Association (Ginnie Mae) bonds, Federal National Mortgage Association (Fannie Mae) bonds, or Federal Home Loan

Mortgage Corporation (Freddie MAC) securities, you cannot subtract these interest or mutual fund dividends because they are not exempt under federal law.

United States obligations that are exempt include:

- Series E, EE, F, G and H savings bonds
- U.S. treasury bills
- U.S. government notes
- U.S. government certificates

Please refer to your federal Form 1099-DIV to determine what percentage of your dividends qualifies for this exemption.

- 17b. An additional amount equal to 10% of the expenditures for the purchase of recycled material that was otherwise deductible as business-related expenses in Montana as computed on Form RCYL, part IV. Form RCYL has to be attached to your tax return. 15-32-610, MCA.
- 17c. Report other deductions on line 17c and attach a detailed schedule reconciling the amount of other deductions including the following:
- A deduction equal to fair market value, not to exceed 30% of the net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana. 15-30-126, MCA.
 - The amount of contributions made by a small business to its independent liability fund. 15-30-127, MCA.
 - A portion of an investment made in a building for the purpose of conserving energy. To qualify, the building has to be used in the entity's business and the result of the investment has to be a substantial reduction in the amount of energy needed to render the building usable. 15-32-103, MCA.
 - Documented expenses for the donation of mineral exploration information to the Montana Tech Foundation. 15-32-510, MCA.

Line 19 - Income Apportioned to Montana.

For a multi-state partnership, multiply the amount that is reported on line 18 by the apportionment percentage that you reported on line 5 of Schedule I, Apportionment Factors for Multi-state Partnerships. See instructions on page xx for Schedule I.

Line 20 - Income Allocated Directly to Montana.

For a multi-state partnership, any income that is determined to be Montana allocable income should be reported on line 20. According to the Multistate Tax Compact adopted by Montana, income should be allocated to Montana only to the extent that it constitutes non-business income. Otherwise, all business income should be apportioned to Montana using the standard three-factor apportionment formula of property, payroll, and sales. See instructions for "allocation of income" on page xx.

In addition to completing line 20, the partnership must attach the following to Form PR-1:

- A statement on which each item of nonbusiness income is shown along with its related expenses.
- A statement explaining the basis for treating the item of income as nonbusiness income subject to allocation.
- If an item of nonbusiness income is allocated to a state other than Montana, a copy of that other state's income tax return must be attached. If the partnership is not required to file an income tax return with the other state, the partnership must indicate this in the attached statement.

Line 21 – Total Montana source income for multi-state taxpayers. Add the amounts on lines 19 and 20.

Line 22 - Partnership Information Tax Return Late Filing Penalty. A partnership is charged a late filing penalty if Form PR-1 is filed after the due date, including the automatic six month extension, unless the entity can show

reasonable cause for not filing on time. The penalty is \$10 multiplied by the number of partners at the close of the tax year for each month or fraction of a month that the entity does not file the partnership information tax return. This penalty is calculated for up to five months.

Please Note: A late filing penalty is not imposed on an entity that has ten or fewer partners if the partners have filed the required tax returns or other required reports timely and have paid all taxes when due.

Line 23 - Total Montana Composite Income

Tax. Enter the total amount of composite tax reported on Schedule IV, column J. See instructions on page xx.

NEW! Line 24 – Partnership Montana Mineral Royalty Withholding. Effective January 1, 2008, royalty payments made to owners of Montana mineral rights are subject to state income tax withholding. This withholding should not be confused with the amounts deducted from your royalty payments for production taxes.

- a. Total Montana mineral royalty withholding – Enter the total amount of mineral royalty withholding as reported on your federal Form(s) 1099.
- b. Mineral royalty withholding attributable to Montana residents-- Enter the total amount attributable to Montana residents.
- c. Mineral royalty withholding attributable to nonresidents not reporting on Schedule IV – Enter the total amount attributable to nonresidents who are *not reporting* on Schedule IV.
- d. Add lines 24b and 24c. This is the total mineral royalty withholding reported by the partners on their income tax returns.
- e. Subtract line 24d from line 24a. This is the mineral royalty withholding attributable to nonresidents *reporting* on Schedule IV.

Line 25 – Return Payments.

- a. 2007 overpayment applied to 2008 - Enter any overpayments from 2007 that were credited to 2008.

- b. 2008 estimated tax payments - Enter the total Montana estimated tax payments that you made for 2008.
- c. 2008 extension payment - If you paid an extension payment for 2008 on or before April 15, 2009, enter that amount on this line.
- d. Other payments - Include any of your payments that you did not report above.
- e. Refunds previously issued (for amended tax returns only) - If you received a refund when you filed your original tax return or a previously amended tax return, include the amount of the refund.
- f. Add lines 25a through 25e – This is the total of your return payments.

Line 26 - Net Montana Composite Tax Due or Overpaid. Add lines 24e and 25f and subtract the amount from line 23.

Line 27 - Interest on Underpayment of Estimated Taxes. Your partnership is required to make estimated tax payments throughout the year if you expect to owe an income tax liability of at least \$500. If your partnership was required to make estimated composite tax payments and it did not remit the required amounts, you will have to pay interest on any underpayment. Calculate the amount of your underpayment interest using Worksheet I below.

Worksheet I - Calculation of Underpayment Interest

In 2008, your partnership was required to pay through estimated installments, the smaller of:

- (1) 90% of your current year's total composite tax liability, after applying mineral royalty withholding (line 24e) and payments (line 25a and 25b), or
- (2) an amount equal to 100% of your previous year's total composite tax liability.

If your partnership does not meet one of the above two requirements, the composite tax is subject to underpayment interest.

Payments made with extensions are not considered estimated payments.

Short Method

1. Enter your total 2008 composite tax reported on Form PR-1, line 23.....
2. Enter 90% of line 1 above.....
3. Enter the amount credited from previous year and reported on Form PR-1, line 25a.....
4. Subtract line 3 from line 1. If the result is \$500 or less, you do not need to complete the rest of the form. You do not owe interest on your underpayment.
5. Enter your 2007 composite tax from Form PR-1, line 22.
6. Enter the smaller of line 2 or line 5.....
7. Enter the amount from line 3 plus any estimated payments made and reported on Form PR-1, line 25b.
8. Subtract line 7 from line 6. This is your total underpayment for the year. If zero or less, stop here. You do not owe interest on your underpayment.
9. Multiply line 8 by 0.05320 and enter the result.
10. If the amount on line 8 was paid on or after the due date of your PR-1, enter zero. If the amount on line 8 was paid before the due date of your PR-1, multiply the amount on line 8 times the number of days paid before the due date of the information tax return x 0.0002192.
11. Subtract line 10 from line 9. This is your underpayment interest. Enter the result here and on Form PR-1, line 27.....

Line 28 - Late Filing Penalty. If you are late in filing your Partnership Information and Composite Tax Return (Form PR-1), a late filing penalty of \$50 or the amount of composite tax owing (line 26), whichever is smaller, will be charged. There is no late filing penalty for the composite tax return if there was an overpayment of composite tax (line 26) and you are receiving a refund.

Line 29 - Late Payment Penalty. If you haven't paid your tax liability (line 26) by the due date of your partnership tax return, you will have to pay a late payment penalty. This penalty is 1.2% per

month or fraction of a month on the composite tax that was not paid by the original due date of the tax return. This penalty cannot exceed 12% of your composite tax on line 26.

Please Note: If you file an amended tax return that reflects an increased composite tax liability, you may have the late payment penalty waived. In order to request the waiver, simply check the "Amended Return" box on the tax form and pay the tax and applicable interest in full. By checking this box, you are requesting a waiver of the late payment penalty. 15-30-112(d)

Line 30 - Interest. Interest will be charged on any composite tax (line 26) that you have not paid by the due date of your tax return.

If 100% of your tax liability is not paid by April 15, 2009 (for a calendar year tax return), interest is due at a rate of 8% per year, computed daily on your unpaid balance.

To calculate your interest, multiply line 26 by 0.0002192 (0.02192%) times the number of days after April 15, 2009 your payment is submitted. Please remember that a valid extension of time to file your tax return does not extend the due date to pay your income tax liability after April 15, 2009.

Line 31 - Montana Composite Penalties and Interest. Add lines 27 through 30 and enter the total.

Line 32 - Add lines 22, 26 and 31 and enter the result here.

Line 33 - Return(s) Amount Due. If the amount on line 32 is greater than zero, enter it on line 33. This is the amount due with your tax return in addition to any back-up withholding due.

Line 34 - Return(s) Overpayment. If the amount on line 32 is less than zero, enter it on line 34. This is the amount of your tax return overpayment before any back-up withholding.

Line 35- 2009 Estimated Tax Payments. All or part of the refund that you reported on line 34 can be refunded, or carried over as your 2009 estimated tax payment. On line 35, enter the amount of the refund reported on line 34 that

you want to be applied to your 2009 estimated tax.

Line 36 - Net Refund. Subtract line 35 from line 34 and enter the amount here. This is the amount of the refund that will be issued.

Line 37 - Montana Corporation License Tax Withheld. If a partner is a foreign C corporation and did not sign an agreement to file a Montana tax return and did not give the partnership permission to pay composite tax on its Montana source income, the partnership has to withhold tax at the rate of 6.75% on the corporation's Montana source income. Enter the amounts withheld for each partner and reported on Schedule V. See instructions on page xx.

Line 38 - Montana Individual Income Tax Withheld. If a partner is a nonresident individual who did not sign an agreement to file a Montana tax return and did not give the partnership permission to pay composite tax on the individual's Montana source income, the partnership has to withhold tax at the rate of 6.9% on that individual's Montana source income.

If a partner is a pass-through entity (referred to as a second tier pass-through entity) and the owners of the second tier pass-through entity did not sign a Form PT-AGR (Montana Pass-Through Entity Owner Tax Agreement) agreeing to file a Montana income tax return, or give the partnership permission to pay composite tax on the partner's Montana source income, the partnership is required to withhold tax at the rate of 6.9% on the partner's Montana source income. Enter the amounts withheld for each partner and reported on Schedule V. See instructions on page xx.

Line 39 - Payments Previously Made for Tax Withheld. Include on this line any payments that you previously submitted for taxes withheld from the partners' Montana source income. If this is an amended tax return, you should include withholding payments that were made on the partners' behalf when you filed the original tax return.

Line 40 - Total Partnership Backup

Withholding Due. Add lines 37 through line 39 and enter the result.

Line 41 - Total Amount Due. Add lines 33 and 40. This is the total amount that you should remit with your tax return.

You can use either of the following two methods to submit your payment.

- Pay the amount due to the Montana Department of Revenue and include the completed Montana Pass-Through Entity Tax Payment Voucher that is inserted in this booklet. Send your payment and voucher with your tax return to: Montana Department of Revenue, PO Box 8021, Helena, MT 59604-8021.
- You can visit our website at mt.gov/revenue to enroll in Business Tax Express, a free service that allows your company to pay composite income tax online. For questions or to add composite income tax to your current Business Tax Express account, call us toll free at 1-866-859-2254 (in Helena 444-6900). Watch our website at mt.gov/revenue for more electronic payment options.
- File your return electronically and pay by check. Make your check payable to the Montana Department of Revenue and mail it to: Montana Department of Revenue, PO Box 8021, Helena, MT 59601-8021

If you are requesting a refund, please check the box located on the upper left hand corner of page 1 of Form PR-1.

NEW! If you want your refund directly deposited, in the space provided, enter your financial institution's routing number (RTN#) and your account number (ACCT#), and indicate whether your account is a checking or savings account. Your routing number will be nine digits and your account can be up to 17 characters (both numeric and alpha). Your direct deposit will be

rejected if the routing number or account number is incorrect. If your direct deposit is rejected, we will mail you a paper check.

Instructions for Montana Schedule I

Schedule I applies only to multi-state partnerships.

In most cases, multi-state partnerships have to compute their income taxable to partners by means of the apportionment factor calculated on Schedule I. The apportionment factor is the standard UDITPA (Uniform Division of Income for Tax Purposes Act) three-factor formula of property, payroll and sales.

When a partnership is engaged in a unitary business within and without the State of Montana, the net income assignable to Montana has to be determined using the apportionment factor. A partnership is unitary when the operations of that business within the state depend on or contribute to the operations of that business outside the state. Schedule I has to be completed fully by every partnership that carries on a unitary business within and without the state.

If you have determined the income that you attribute to Montana on some basis other than the apportionment method, you will need to include a full and detailed description of your business operation along with an explanation of the method that you proposed. If you use an alternative method of determining your Montana taxable income, you will still need to complete and submit Schedule I.

The following is a detailed explanation of how to calculate the apportionment factor. To calculate each of the factors, use the following formula: column B divided by column A, multiplied by 100. Round out to the fourth decimal (example: 25.5555%).

Property Factor (Line 1, Schedule I) - 15-31-306, MCA. The property factor is a fraction. The numerator is the average value of the partnership's real and tangible personal property owned, leased or rented and used in Montana in

the production of business income during the tax period. Enter the numerator values in column B of Schedule I. The denominator is the average value of all of the partnership's real and tangible personal property owned, leased or rented and used in the production of business income during the tax period. Enter the denominator values in column A of Schedule I.

Property owned by the partnership is valued at its original cost. Real and tangible personal property that is used in the business includes land, building, machinery, equipment, stocks of goods, inventories, and other tangible property actually used in connection with the production of the business income to be apportioned. It does not include money, accounts receivable, or other intangible property, real property that is held for investment or non-business purposes, or idle property of any nature.

To the extent that it is utilized in Montana, migratory property has to be included in the numerator.

Unless we otherwise require it, the average value of owned property has to be determined by averaging the values at the beginning and ending of the tax period.

All property that you rent has to be valued at eight times the net annual rental rate. Rental expense cannot be averaged. You have to use your rental expense for the current year in the property factor.

Payroll Factor (Line 2, Schedule I) - 15-31-308, MCA. The payroll factor is a fraction. The numerator is the total amount that you paid for compensation attributable to the production of business income during the tax period in Montana. Enter the numerator values in column B of Schedule I. The denominator is the total amount that you paid for compensation attributable to the production of business income during the tax period. Enter the denominator values in column A of Schedule I.

Payroll is considered to be paid in Montana if:

- The base of operations is in Montana.

- There is no base of operations and the place from which the service is directed or controlled is in Montana.
- The base of operations or the place from which the service is directed or controlled is not in a state where some part of the service is performed but the person who provides the service is located in Montana.

Sales Factor (Line 3, Schedule I) - 15-31-310, MCA. Sales means all gross receipts of the partnership exclusive of non-business income and inter-company transactions. The sales factor is a fraction. The numerator is the partnership's total sales in Montana during the tax period. Enter the numerator values in column B of Schedule I. The denominator is the partnership's total sales everywhere during the tax period. Enter the denominator values in column A of Schedule I.

Sales of tangible personal property are in Montana if:

- The property is delivered or shipped to a purchaser, other than the United States Government, or
- The partnership is not taxable in the state of the purchaser.

Sales other than sales of tangible personal property are in the state if:

- The income-producing activity is performed in Montana, or
- The income-producing activity is performed both in and outside Montana and a greater proportion of the income-producing activity is performed in Montana than in any other state, based on costs of performance.

Sum of Factors (Line 4, Schedule I) - Add lines 1, 2 and 3 in column C. Enter the result on line 4 in column C.

Apportionment Factor (Line 5, Schedule I) - Divide line 4 by the number of factors present. A factor is present if you have a value in column A for property, payroll or sales. Enter the apportionment factor on line 5 of Schedule I and also insert it on line 19, page 1 of Form PR-1, rounding it out to the fourth decimal (example: 25.5555%).

Instructions for Montana Schedule II

A tax credit claimed by a partnership has to be attributable to its partners using the same proportion that was used to report the partnership's income or loss for Montana income tax purposes. Please provide a detailed breakdown to each partner that shows how the credit is proportioned, and a copy of the credit form and/or schedule that was used to calculate the credit.

Montana credits are passed through from a partnership to the partners. The partner determines any necessary limitations when reporting the credit on their income tax return. Unused credits may not be redistributed to other partners. For example, if the ownership of the partnership consisted of a resident partner and a nonresident partner, the nonresident partner's share of the credit could not be claimed by the resident partner even though the nonresident partner is not allowed to use it.

The tax credits explained below cannot be taken as a credit against your composite tax reported on this Form PR-1.

Line 1 - Dependent Care Assistance Credit (Form DCAC) - 15-30-186 and 15-31-131, MCA. An employer can claim a credit for amounts paid or incurred for dependent care assistance provided to employees.

This assistance can be in the form of:

- acquiring, constructing, reconstructing, renovating, or improving real property for primary use as a day care facility;
- providing dependent care assistance to employees that meet the requirements of IRS code 26 USC 129(d)(2) through (d)(6);
- providing information and referral services to assist employees within the state in obtaining dependent care.

Line 2 - College Contribution Credit (Form CC) - 15-30-163, MCA. Partners in a partnership who make charitable contributions to the general endowment funds of the Montana University

System foundations, or to the general endowment funds of a private Montana college, or its foundation during the year are allowed a credit. This credit is allowed in the amount of 10% of the aggregate of these contributions. The maximum amount of credit that can be claimed is \$500 per year with no provision for carryback or carryover.

Line 3 - Health Insurance for Uninsured Montanans Credit (Form HI) - 15-30-185, MCA. Employers can claim a credit for the health insurance premiums that are paid by that employer for its employees. If you are using insurance premiums to calculate the Insure Montana credit, these premium payments cannot be used to calculate the Health Insurance for Uninsured Montanans credit.

Line 4 - Recycle Credit/Deduction (Form RCYL) - 15-32-602 and 15-32-603, MCA. A business is entitled to a credit for investments in equipment or machinery used to collect, process or manufacture a product from reclaimed material or depreciable property that treats soil contaminated by hazardous wastes. The credit is a percentage (5% to 25%) of the cost of the property, before consideration of trade-in equipment. An exception to this is that the basis will be reduced by any trade-in for which this credit has been previously taken..

Line 5 - Alternative Energy Production Credit (Form AEPC) - 15-32-402, MCA. A credit is available for a qualified investment of \$5,000 or more in depreciable property for the use of a commercial system or a net metering system that is located in Montana and that generates energy by means of an alternative renewable energy source. The credit is 35% of the eligible costs associated with the purchase, installation, or upgrading of generating equipment, safety devices and storage equipment, transmission lines necessary to connect with existing transmission facilities, and transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available. The credit is further limited, in that it can only be applied against the

tax liability due as a consequence of the alternative energy system generating taxable or net income. The credit can be carried forward for seven succeeding years. An exception to the seven year carry forward period applies when the investment is located within the exterior boundaries of a Montana Indian reservation.

Line 6 - Contractor's Gross Receipt Tax Credit - 15-50-207, MCA. A business is entitled to a credit for the public contractor's gross receipts tax paid. The credit is the gross receipts tax paid throughout the year after the personal property taxes are deducted. If the business reports its income on a percentage-of-completion basis, the credit has to be prorated proportionately. To support the credit that you claim, attach a schedule or statement including the contract name (and number, if any); location; general description (for example: building, road, bridge, etc.); name of awarding agency; name of prime contractor and the amount of gross receipts tax paid, as well as the amount that has been applied to personal property taxes. The credit cannot exceed the tax liability and any credit balance remaining can be carried forward by the shareholders for five succeeding tax years.

Line 7 - Alternative Fuel Credit (Form AFCR) - 15-30-164, MCA. There is a credit for equipment and labor costs that you incur in order to convert a motor vehicle licensed in Montana to operate on alternative fuel. The maximum credit is equal to 50% of the equipment and labor costs incurred but cannot exceed: \$500 for conversion of a motor vehicle with a gross weight of 10,000 pounds or less; \$1,000 for conversion of a motor vehicle with a gross vehicle weight over 10,000 pounds

The credit should not be confused with the federal deduction for the purchase of a qualified clean-air vehicle.

Line 8 - Infrastructure Users Fee Credit - 17-6-316, MCA. You can claim a credit for the infrastructure user's fee paid to a local government. To claim this credit, you have to

meet the criteria set forth in 17-6-309(2), MCA, and pay the infrastructure users fee. This form has to be certified by the county, verifying the amount of the infrastructure user's fee paid and the timeliness of your payment. This credit can be carried forward for seven years or carried back for three years.

Line 9 - Qualified Endowment Credit (Form QEC) - 15-31-162, MCA. Partners are entitled to a credit for 40% of the present value of a planned gift made during the tax year to a qualified Montana endowment or for 20% of a direct contribution to a qualified endowment. The maximum amount of the credit that a partner may claim is \$10,000 with no provision for carry-back or carry-forward. The value of the gift that you used when you calculated the credit cannot be claimed as a charitable contribution. For detailed instructions, please see Form QEC. If the credit is claimed, attach to the tax return, a copy of Form QEC and your verification requirements for any planned gift or outright charitable gift made to a qualified endowment. To learn more about the endowments statewide, visit the Governor's Task Force on Endowed Philanthropy website at www.endowmontana.org/.

If a charitable gift is recovered in the current year by the partnership, the partners may have to recapture in the current year the amount of the credit that they claimed in the year the credit was taken on their Montana tax return. The recapture is reported on line 9a of Schedule II.

Line 10 - Historic Property Preservation Credit (Federal Form 3468) - 15-30-180, MCA. A credit equal to 25% of the federal rehabilitation credit provided for in IRC section 47(a)(2) for the preservation of certain historic buildings located in Montana is allowed. If this credit is claimed, attach a copy of the federal Form 3468 to the tax return.

As an alternative to the percentage of the federal rehabilitation credit, a credit equal to 20% of the cost of creating a conservation easement and for the diminishing value of the

historic property, including its building and structure, that resulted from placing a conservation easement on the property may be claimed.

Line 11 - Increasing Research Activities Credit (Form RSCH) - 15-30-168 and 15-31-150, MCA. A credit is available for increases in qualified research expenses and basic research payments for research conducted in Montana. The credit is determined in accordance with IRC section 41, with the exception that the applicable rate is 5% for Montana purposes. This credit can be carried back two years and carried forward for 15 succeeding years.

Line 12 - Mineral Exploration Incentive Credit (Form MINE-CRED) - 15-32-503, MCA. A credit can be claimed for certified expenditures of mining exploration activities. Certified expenditures are the costs that are incurred for activities that directly support the exploration activity conducted at a specific exploration site. This credit applies to activities associated with both new mines and mines that are being reopened. A completed Form MINE-CRED has to be attached to your tax return. To obtain this credit, you will first have to submit a request that details the work done and the expenses incurred. This has to be done within 60 days following the end of the calendar year and reported on a form provided by the Department of Revenue. The department has until September 30 to certify whether expenses qualify for the credit.

Line 13 - Empowerment Zone Credit - 15-30-182, MCA. An employer who has a business in an empowerment zone as described in 15-30-182, MCA is entitled to a credit for each new employee at this business. The Montana Department of Labor and Industry has to certify the business before that business can qualify for this credit.

Line 14 - Film Production Credit (Form FPC) - 15-31-907 and 15-31-908, MCA. You can claim a credit for employing residents of Montana in a state-certified production. The credit is equal to

the sum of 14% of the first \$50,000 or less that was compensated to each Montana resident who was employed in a state-certified production. You can elect to have this credit refunded or you can carry the credit forward for four years.

You can claim a refundable credit for qualified expenditures made in Montana in connection with a state-certified film production. The credit is equal to 9% of the total qualified expenses incurred in connection with the production. The qualified expenditures credit must be refunded if your tax liability is less than the amount of the credit.

The qualified compensation and expenditures used to calculate the credit cannot be taken as deductions that are used to calculate Montana taxable income.

If your production company's certification is revoked after you take the credit, the production company shall recapture the amount of any credits taken on line 14a of Schedule II.

Line 15 - Biodiesel Blending and Storage Credit (Form BBSC) - 15-32-703, MCA. A credit can be claimed by a qualified taxpayer for the cost of investments in depreciable property used for storing or blending biodiesel made from Montana products with petroleum diesel for sale. This credit can be carried forward for seven tax periods if the facility is blending or storing biodiesel for blending. For detailed instructions, please see Form BBSC. If this credit is claimed, attach Form BBSC to the tax return. If the facility ceases blending biodiesel for sale for a period of 12 consecutive months within five years of claiming the credit, the credit is subject to recapture. If the facility's biodiesel sales are not at least 2% of all diesel sales by the end of the third year after the credit is initially claimed, the credit is subject to recapture. The recapture is reported on line 15a of Schedule II.

Line 16- Oilseed Crushing and Biodiesel/Biolubricant Production Credit (Form OSC) - 15-32-701 and 15-32-702, MCA. You can claim a credit for the cost of

investments in qualifying depreciable property used to crush oilseed crops for the purpose of making biodiesel fuel or biolubricant, or used to construct or equip a facility in Montana to be used for producing biodiesel or biolubricant. This credit can be carried forward for seven tax periods if the facility is crushing oilseed during that tax period. For detailed instructions, please see Form OSC. If this credit is claimed, attach Form OSC to the tax return. If the facility for which the credit is claimed ceases operations for a period of 12 consecutive months within five years of claiming the credit, the credit is subject to recapture. The recapture is reported on line 16a of Schedule II.

Line 17 - Geothermal System Credit (Form ENRG-A) - 15-32-115, MCA. A credit can be claimed for a portion of the installation costs of a geothermal system in the taxpayer's principal dwelling or in a residence constructed by the taxpayer. Only one credit may be claimed for a residence. The credit of \$1,500 can be carried forward for seven succeeding tax years.

Line 18- Insure Montana Small Business Health Insurance Credit. If you were the owner of a business that received a tax credit from the Insure Montana Small Business Health Insurance program, enter the amount of credit you are entitled to on line 18. The amount of credit you may claim is the total credit amount issued to the business multiplied by your ownership percentage. For example, if you were a 50% owner and the business received \$6,000 in tax credit, you are entitled to claim \$3,000 (\$6,000 x 0.50 (50%)).

If you are using insurance premiums to calculate the Health Insurance for Uninsured Montanans credit (line 3) these premium payments cannot be used to calculate the Insure Montana credit.

Enter the Federal Employer Identification Number (FEIN) of the business which received the credit in the space provided. If you were the owner of more than one company receiving the credit, enter the FEIN of the company that received the highest amount of credit. Attach a

copy of the most recent certificate from the State Auditor's Office providing the amount of tax credit the business received.

Additionally, the premiums paid for these policies are not allowed as a deduction. Please see instructions for PR-1, line 16c (Other Additions), on page xx.

NEW! Line 19 – Temporary Emergency Lodging Credit (Form TELC) 15-30-196, MCA.

For tax years beginning after December 31, 2007, a refundable tax credit is available for licensed establishments that provide short-term emergency lodging under the Temporary Emergency Lodging Program. The program helps provide lodging for individuals or families who have been displaced from their residence and have been referred to the establishment by a charitable organization approved by the Montana Department of Public Health and Human Services. The credit is \$30 for each night of lodging provided by the establishment.

An individual may claim the credit if they are the owner of the establishment or they have an ownership interest in the partnership or S corporation that owns the establishment.

Instructions for Montana Schedule III

Montana Partnership Information

Include all partners on this form. If you need additional space, you can make copies of Schedule III, or you can create your own schedule as long as you use exactly the same format shown on this schedule. We cannot accept copies of federal Schedule K-1 in place of a completed Schedule III. If Schedule III is not completed, we will return Form PR-1 for you to complete.

Partner Information. Complete Section A, columns A through D, for all resident partners of the partnership.

Complete Section B, columns A through G, for each partner who is a nonresident individual or a second tier pass-through entity.

Check Boxes

Check all applicable boxes, as follows:

Partner withholding. Check this box if backup withholding applies.

Composite income tax. Check this box if one or more nonresident partners have elected to be included in a composite return.

Number of partners. Enter the partner information located on the top right hand corner of Schedule III. Enter the number of resident partners in the first box. Enter the number of nonresident partners in the second box. Enter the total number of partners in the third box. The total in the third box will equal the sum of resident and nonresident partners.

Section A. Resident Partners

Column A - Name and Address of Partner.

Enter the name and complete mailing address of each partner. Include the street name, city, state and zip code.

Column B - Identification Number. If the partner is an individual, enter the social security number (SSN) of the individual as it appears on the federal Schedule K-1 in the appropriate box. If the partner is an S corporation, disregarded entity, trust or estate, enter the federal employer identification number (FEIN) of the partner as it appears on the federal Schedule K-1 in the appropriate box.

Column C - Percentage of ownership used to calculate profit or (loss). Enter each partner's percentage of ownership in the partnership that is used to calculate the partner's share of income.

Column D - Income. Section A, Column D is to be used by partnerships deriving all of their income from within Montana. Enter each partner's share of the partnership's income.

Section B. Nonresident Partners

Column A - Name and Address of Partner.

Enter the name and complete mailing address of each partner. Include the street name, city, state and zip code.

Column B - Identification Number. If the partner is an individual, enter the social security number (SSN) of the individual as it appears on the federal Schedule K-1 in the appropriate box. If the partner is an S corporation, disregarded entity, trust or estate, enter the federal employer identification number (FEIN) of the partner as it appears on the federal Schedule K-1 in the appropriate box

Column C - Percentage of ownership used to calculate profit or (loss). Enter each partner's percentage of ownership in the partnership that is used to calculate the partner's share of Montana source income.

The total for Column C for both Sections A and B should be 100%.

Column D - Montana Source Income. Enter each partner's share of the partnership's Montana source income. Montana source income is the aggregate of the partner's share of income, gain, losses, or deductions or other expenses of the partnership, which are deductible only by the partnership and which are attributable to Montana.

Column E - Composite Income Tax. Enter the amount of composite income tax for each partner that you calculated on Schedule IV, column J.

Column F - Partner Withholding. Enter the amount of backup withholding for each partner that you calculated on Schedule V, column D or E.

Column G - Consent Agreement or Statement. The information supplied in this column is for nonresident partners who will be filing a Montana tax return. A partner is considered a nonresident if the individual partner is not a Montana resident. A partnership is not required to complete and attach a new agreement each year as long as we have an up-to-date Form PT-AGR for that owner. You only need to provide Form PT-STM for a second tier pass-through entity that has a nonresident owner. If the partner is a second tier pass-through entity, we have to receive a new Form

PT-STM each year. In column G, enter the year that the form was provided to us or attach copies of up-to-date, signed agreements and statements and enter "2008" in column G.

Instructions for Montana Schedule IV

Montana Partnership Composite Income Tax Schedule

If you need additional space, you can make copies of Schedule IV, or you can create your own schedule as long as you use exactly the same format shown on this schedule.

A partnership can elect to file a composite tax return and pay a composite tax on behalf of a participating eligible partner. The tax credits from Schedule II cannot be applied to reduce your composite tax. The tax credits may be used only to offset income tax that was reported on the partner's Montana individual income tax return or Montana corporation license tax return.

To be eligible to file a composite tax return, a partner has to:

- be a nonresident individual; or
- be a foreign C corporation that is a corporation not engaged in or doing business in Montana as provided in 15-31-101, MCA; or
- be a pass-through entity, also referred to as a second tier pass-through entity;
- have only Montana source income from the partnership or from other partnerships or S corporations in which an election has been made to participate in the filing of a composite tax return.

A partnership can include a partner in filing a composite tax return only upon receipt of a power of attorney executed and signed by an eligible partner. The power of attorney authorizes the partnership to act on behalf of the participating partner. Do not submit the power of attorney with the tax return but retain it as authorization from the partner and for use in subsequent years.

Upon receipt of a signed power of attorney and filing of the composite tax return, the partnership is responsible for:

- remitting the composite tax to the department,
- paying any additional tax, penalty and interest associated with the composite tax return,
- representing the participants in any appeals, claims for refunds, hearing or court proceeding, and
- making quarterly estimated payments.

Column A - Name of Eligible Participating Partner. List the name of the participating partner or member as it appears on your Form PR-1, Schedule III.

Column B - Social Security Number or Federal Employer Identification Number. Enter the social security number or federal employer identification number of the participating partner as it appears on your Form PR-1, Schedule III.

Column C - Federal Income from Entity. Enter the participating partner's share of the partnership's total federal income from all sources that you reported on your federal Schedule K-1. This includes the aggregate of the partner's share of income, gain, losses, deductions or other expenses of the partnership for federal income tax purposes.

Column D - Standard Deduction. Each eligible participating partner is allowed one standard deduction equal to 20% of column C, but not less than \$xxxx or more than \$xxxx. An individual partner who has filed a joint federal tax return with a spouse is entitled to only one standard deduction.

Column E - Exemption. Each participating partner is allowed one exemption of \$xxxx. An individual partner who has filed a joint federal tax return with a spouse is entitled to only one exemption.

Column F - Taxable Income. Subtract column D from column C, then subtract column E from the result. Enter this amount in column F.

Column G - Tax from Tax Table. Use the tax table at the bottom of Schedule IV to calculate the tax on the amount in column F. Enter the result in column G. This amount cannot be less than \$0.

Column H - Montana Source Income. Enter the participating partner's share of the partnership's Montana source income. The share of Montana source income is the aggregate of the partner's share of income, gain, losses, deductions or other expenses of the partnership, which are deductible only by the partnership and which are attributable to Montana.

Column I - Ratio. Divide Montana source income in column H by the federal income from the partnership reported in column C. Carry to four decimal places. Do not enter more than 1.0000.

Column J - Montana Composite Income Tax Liability. Multiply the amount in column G, tax from tax table, by the ratio in column I and enter the result. This is the participant's Montana composite tax liability. The tax liability cannot be a negative number. A net operating loss is not created when you compute composite tax.

Instructions for Montana Schedule V

Pass-through Entity Backup Withholding Schedule

You will have to withhold tax for those nonresident partners who did not file a consent agreement or statement and did not elect to have the partnership pay composite tax.

If the partner is a nonresident of Montana and a partner in a Montana partnership, the partnership is required to withhold gross income tax from the partner's pro rata share of partnership income. Payments made by the partnership on the partner's behalf will be reported to the partner on Schedule III, Form PT-WH and must be included as Montana *estimated tax payments* on the partner's Montana individual income tax return. Schedule V is used to report the withholding payment(s)

made for nonresident partners who have not signed the Form PT-AGR (Montana Pass-through Entity Owner Tax Agreement) or who are not included on Schedule IV (Montana Partnership Composite Income Tax Schedule).

267(b) or Section 707(b) of the Internal Revenue Code; 26 USC 267(b) or 26 USC 707(b).

You no longer need to submit Form PT-WH with Schedule V. Form PT-WH has to be completed and sent to the partner listed in column A of Schedule V. You should keep a copy for your records.

Column A - Name and Address of Partner.

List the name and address of the partner as it appears on your Form PR-1, Schedule III.

Columns B - Social Security Number or Federal Employer Identification Number.

Enter the social security number or federal employer identification number of the partner as it appears on your Form PR-1, Schedule III.

Column C - Total Montana Source Income.

Enter the partner's share of the partnership's Montana source income that you reported on your Form PT WH, line 1. The share of Montana source income is the aggregate of the partner's share of income, gain, losses, deductions or other expenses of the partnership, which are deductible only by the partnership and which are attributable to Montana.

Column D - Montana Corporation Tax

Withheld. If the partner is a foreign C corporation, multiply the amount in column C by 6.75% and enter the result in column D.

Column E - Montana Individual Tax Withheld.

If the partner is a nonresident individual or a second tier pass-through entity, multiply the amount in column C by 6.9% and enter the result in column E.

Instructions for Montana Schedule VI

Check the appropriate boxes indicating which forms were required to be filed with your federal income tax return. If any questions are answered "Yes," you will have to attach a copy of the applicable form.

For purposes of statement 5, "related party" has the same meaning given the term in Section